

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**OHIOANS AGAINST CORPORATE BAILOUTS, LLC,
aka OHIOANS AGAINST CORPORATE BAILOUTS, *et al.*,**

Plaintiffs,

v.

**FRANK LAROSE, in his official capacity as
Ohio Secretary of State, *et al.*,**

**Case No. 2:19-cv-4466
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

Defendants.

ORDER

Pursuant to Rule 9.01 of the Rules of Practice of the Supreme Court of Ohio, this Court certifies questions of state law to the Supreme Court of Ohio, as set forth in its October 23, 2019 Opinion & Order. (ECF No. 49.) Pursuant to Rule 9.02 of the Rules of Practice of the Supreme Court of Ohio, this Court provides the following information:

1. Name of the Case

Ohioans Against Corporate Bailouts, LLC, aka Ohioans Against Corporate Bailouts, *et al.* v. Frank LaRose, in his official capacity as Ohio Secretary of State, *et al.*

2. Factual Background, Procedural History, and Reasons for Certification

The relevant factual background and procedural history of this case, along with the reasons for certification, are set forth in this Court's October 23, 2019 Opinion & Order Denying Plaintiffs' Motion for Preliminary Injunction and Certifying Questions to the Supreme Court of Ohio. (ECF No. 49.) A copy of that Opinion & Order is attached to this Order.

That Opinion & Order denied Plaintiffs' Motion for Preliminary Injunction because it found, at this stage in the proceedings, that Plaintiffs were not likely to succeed on the merits of

their claim of First Amendment infringement based upon the “blackout period” of Ohio Revised Code § 3519.01(B). This Court did not, however, make a final determination on the merits of Plaintiffs’ claims. Instead, the Court found there are questions of Ohio law determinative of these proceedings, and that there is no controlling precedent by the Supreme Court of Ohio. The Supreme Court of Ohio’s resolution of the certified questions, and in particular, the first certified question of “[w]hether the right to referendum set forth in Article II, Section 1 of the Ohio Constitution guarantees those circulating petitions in support of a referendum a full ninety days solely for the purpose of circulating petitions” will be determinative of the final resolution of Plaintiffs’ First Amendment claims and the available relief.

3. Questions Certified

- 1.) Whether the right to referendum set forth in Article II, Section 1 of the Ohio Constitution guarantees those circulating petitions in support of a referendum a full ninety days solely for the purpose of circulating petitions?
- 2.) If so, whether Ohio Rev. Code § 3519.01 violates the Ohio Constitution by shortening the ninety days to accommodate the fair-and-truthful review?
- 3.) If the Ohio Constitution guarantees a petitioner ninety days to circulate petitions, whether the number of days attributable to a petitioner’s own errors in submitting a referendum petition under Ohio Rev. Code § 3519.01 is “credited” to the petitioner, or deducted from the ninety days?
- 4.) Whether a petitioner who does not claim to be “aggrieved” by the fair-and-truthful determination and thus fails to appeal the denial of a certification under Ohio Rev. Code § 3519.01(C) is entitled to credit toward the ninety days for the time spent fixing deficiencies in a fair-and-truthful statement?
- 5.) Whether a petitioner gets credit toward the ninety days for the time before, or between, a petition submission when the Attorney General and Secretary of State do not have a petition to review and consider under Ohio Rev. Code § 3519.01?

4. Designation of Moving Party

This Court designates Defendant Frank LaRose, in his official capacity as Ohio Secretary of State, as the moving party.

5. Names of the Parties

Plaintiffs: Ohioans Against Corporate Bailouts, LLC, aka Ohioans Against Corporate Bailouts; David J. Eckert; Brandon S. Lynaugh; Trevor J. Vessels; and John Doe #1.

Defendants: Frank LaRose, in his official capacity as Ohio Secretary of State; and Zach Klein, in his official capacity as City Attorney of Columbus, Ohio.

6. Attorneys' Contact Information

Plaintiffs are represented by the following counsel:

Curt Carl Hartman (0064242)
THE LAW FIRM OF CURT C. HARTMAN
7394 Ridgepoint Drive, Suite 8
Cincinnati, Ohio 45230
513-379-2923
hartmanlawfirm@fuse.net

Christopher P. Finney (0038998)
Brian C. Shrive (0088980)
FINNEY LAW FIRM, LLC
4270 Ivy Pointe Boulevard, Ste 225
Cincinnati, Ohio 45245
513-943-6650
chris@finneylawfirm.com
brian@finneylawfirm.com

Patrick M. Quinn (0081692)
BRUNNER QUINN
35 North Fourth Street, Suite 200
Columbus, Ohio 43215
614-241-5550
pmq@brunnerlaw.com

David R. Langdon (0067046)
Joseph A. Vanderhulst*
LANGDON LAW LLC
8913 Cincinnati-Dayton Rd.
West Chester, Ohio 45069
513-577-7380
dlangdon@langdonlaw.com
joseph@langdonlaw.com
**admitted pro hac vice*

Defendant Frank LaRose is represented by the following counsel:

Bridget C. Coontz (0072919)
Ann Yackshaw (0090623)
Assistant Attorneys General
Constitutional Offices Section
Ohio Attorney General Dave Yost
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
614-466-2872
Bridget.Coontz@ohioattorneygeneral.gov
Ann.Yackshaw@ohioattorneygeneral.gov

Defendant Zach Klein is represented by the following counsel:

Andrew D.M. Miller (0074515)
Lara N. Baker-Morrish (0063721)
Assistant City Attorneys
CITY OF COLUMBUS, DEPARTMENT OF LAW
ZACH KLEIN, CITY ATTORNEY
77 North Front Street, Fourth Floor
Columbus, Ohio 43215
614-645-7385
admmiller@columbus.gov
lnbaker@columbus.gov

In accordance with Rule 9.03 of the Rules of Practice of the Supreme Court of Ohio, the Court **DIRECTS** Mr. Richard W. Nagel, Clerk of Court for the United States District Court, Southern District of Ohio, to serve copies of this Order and attachment upon counsel for the parties and to file this Order and attachment under the seal of this court with the Supreme Court of Ohio.

IT IS SO ORDERED.

DATE

10-24-2019

EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

